



100 Wall Street
20th Floor
New York, NY 10005

Main: 212.431.8700
Fax: 212.334.1278
foster.com

April 1, 2022

VIA ECF

Hon. Denise L. Cote
United States District Court
Southern District of New York
500 Pearl Street, Room 1910
New York, New York 10007

Re: *TransPerfect Global, Inc. v. Lionbridge Technologies, Inc., et ano.*,
No. 1:19-CV-03283

Dear Judge Cote:

Plaintiff TransPerfect Global, Inc. (“TPG”) respectfully requests leave to file under seal the following exhibits to the respective Declarations of Malcolm Seymour, Martin Russo, and Daniel Branower in Opposition to Defendants’ Motion for Attorneys’ Fees and Costs. Plaintiff also seeks leave to file redacted versions of: Plaintiff’s Memorandum of Law in Opposition to Defendants’ Motion for Attorneys’ Fees and Costs, the Declaration of Malcolm Seymour, and the Declaration of Daniel Branower. Plaintiff seeks further leave to submit certain native format exhibits on a password protected thumb drive to be hand delivered to the Court.

Exhibits to be Filed under Seal

Plaintiff requests leave to file under seal the following documents:

Seymour Declaration, Ex. Nos. 4, 5, 6, 9, 14, 15, 18;

Russo Declaration, Ex. C; and Ex. F;

Branower Declaration, Ex. 1.

Seymour Declaration Exs. 4 and 6 are confidential e-mail communications between counsel to the parties which discuss and reflect TPG’s and/or Lionbridge’s proprietary trade secrets, confidential business and financial information, and confidential business strategy. Russo Declaration Ex. C contains Plaintiff’s confidential and privileged e-mail communications.

Seymour Declaration Ex. 5 is a document that was produced by Defendants and designated as Highly Confidential pursuant to the Court’s June 3, 2020 Order Regarding

Hon. Denise L. Cote
 April 1, 2022
 Page 2

Confidential Discovery Material (ECF No. 78) (the “Confidentiality Order”). It contains confidential business information of Defendant Lionbridge Technologies, Inc. (“Lionbridge”).

Seymour Declaration Exs. 14 and 15 are Plaintiff’s contention interrogatory responses and e-mail correspondence regarding contention interrogatories, which contain or reference sensitive proprietary business information.

Seymour Exs. 9 and 18, and Branower Ex. 1 are excerpts of deposition testimony from the respective deposition transcripts of Philip Shawe, Richard Tobin, and Brian McDonald, which have been partially or entirely designated Confidential or Highly Confidential by Defendants and/or TPG pursuant to the Confidentiality Order. Russo Declaration Ex. F is a document produced by the Defendants and designated as Confidential pursuant to the Confidentiality Order, containing confidential business information of Defendant HIG Middle Market, LLC (“HIG”). Motions to seal deposition testimony of parties and third party witnesses in this case have previously been granted in connection with the Defendants’ motion for summary judgment. (*See* Dkt. Nos. 215, 262, 274).

Finally, Plaintiff seeks leave to file a redacted versions of: Plaintiff’s Memorandum of Law in Opposition to Defendants’ Motion for Attorneys’ Fees and Costs, the Declaration of Malcolm Seymour, and the Declaration of Daniel Branower. The redacted information in these documents contain Plaintiff’s confidential and competitively sensitive business information and/or information from Defendants’ billing records that Defendants’ counsel filed under seal. Pursuant to Your Honor’s Individual Practices and consistent with past filings, Plaintiff will file a public, redacted version of these documents, as well as a sealed version with the proposed redactions highlighted in yellow.

TPG submits that the public disclosure of these documents would cause Plaintiff, Defendants, or other designating parties competitive and financial harm that outweighs any presumption of public access. The applicable case law recognizes that sealing of these documents is appropriate because if “made public, they would reveal confidential trade secret information, research and development information, marketing strategy, sales data, and information gleaned from internal tests and investigations, which [Plaintiff’s] competitors could use to gain an unearned competitive edge.” *In re Zimmer M/L Taper Hip Prosthesis or M/L Taper Hip Prosthesis With Kinectiv Tech. & VerSys Femoral Head Prod. Liab. Litig.*, No. 18-MC-2859 (PAC), 2021 WL 1625390, at *2 (S.D.N.Y. Apr. 27, 2021) (“courts will seal judicial documents ‘where trade secrets and material that would place a party at a competitive disadvantage are being used in public filings.’”). “When litigation requires disclosure of trade secrets, the court may disclose certain materials only to the attorneys involved.” *GoSMiLE, Inc. v. Dr. Jonathan Levine, D.M.D. P.C.*, 769 F. Supp. 2d 630, 649 (S.D.N.Y. 2011); *see also Louis Vuitton Malletier S.A. v. Sunny Merch. Corp.*, 97 F. Supp. 3d 485, 511 (S.D.N.Y. 2015) (“Plaintiffs’ proposed redactions are generally limited to specific business information and strategies, which, if revealed, ‘may provide valuable insights into a company’s current business practices that a competitor would seek to exploit.’”).

Hon. Denise L. Cote
April 1, 2022
Page 3

Plaintiff also requests permission to file certain native format exhibits on a password protected thumb drive to be hand delivered to the Court. These exhibits consist of a video file (Ex. 3 to the Seymour Declaration) and an Excel spreadsheet (Ex. 5 to the Seymour Declaration), the latter of which we are also requesting leave to file under seal. We will serve the Defendants with these files either by secure file transfer, or by delivery of a thumb-drive, at or near the time of filing. It is our understanding that the electronic filing system does not accept these file formats, and conversion to a different format would result in loss of functionality.

For the reasons set forth above, Plaintiff respectfully requests that the motion for sealing be granted. We thank the Court for its consideration.

Respectfully submitted,


FOSTER GARVEY PC

By: /s/ Malcolm Seymour
Malcolm Seymour

cc: All Counsel of Record – Via ECF

Granted.

Dated: April 4, 2022



DENISE COTE
United States District Judge